Osgoode Hall Law Journal

Volume 3, Number 2 (April 1965)

Article 25

The London Life Insurance Company v. Chase [1963] S.C.R. 267

R. L. W.

The London Life Insurance Company v. Chase [1963] S.C.R. 267.

The Supreme Court in a rather tragic case was given the opportunity to consider the burden of proof resting on those alleging the commission of a criminal or quasi-criminal offence in civil proceedings.

The late Robert Leroy Chase, the respondent's husband, was an apparently normal young man of twenty-three, living in his own home with his wife and two children and gainfully employed. On the evening of May 1st, 1959 on returning from a "stag" party he kissed his wife dozing in the living room and then went in succession from the bathroom to a storage room in the rear of the house. His wife heard a noise and on entering the storage room found the deceased lying prone, a rifle beside him, and with a fatal bullet wound in his right temple. The appellant Insurance Company disclaimed liability on a life insurance policy on the deceased's life by reason of an exclusion clause which read as follows:

> In case the life insured shall die by his own hand whether sane or insane, within two years from the date on which this policy is issued, the liability of the company hereunder shall be limited to an amount equal to the premiums paid on the policy without interest.

The appellant produced the evidence of a qualified expert that having regard to the nature of the wound, the position of the body and the character of the rifle, suicide was the only logical explanation of the death. The trial judge held the Insurance Company had not satisfied the onus resting on it to prove the commission of suicide and ordered payment of the proceeds of the policy to the respondent widow. This judgment was affirmed by a majority of the Manitoba Court of Appeal.

The appellant brought its appeal to the Supreme Court alleging that the trial judge and the majority of the Court of Appeal had misdirected themselves as to the proper standard of proof applicable to the circumstances. They relied on excerpts from the lower court judgments as indicating the judges had applied the criminal or even higher standard of proof.

Bastin J. had said at trial:

> I have come to the conclusion that however unlikely accident may be as an explanation of the death it is not beyond all possibility and it is not more unlikely than that this normal, cheerful, happy young man deliberately took his life.

In the Court of Appeal in delivering the decision of the majority Schultz J. had used equally strong language. Ritchie J. speaking for the Supreme Court in dismissing the appeal refused to view segments of the lower judgments in isolation:

> After considering the decisions of Bastin J. and Schultz J. in their entirety, I cannot say that they adopted any standard other than that of weighing the probabilities and improbabilities of the plaintiff's case against those of the case of the defendant and that having due regard to the seriousness of the allegation of suicide and the complete absence of motive they concluded the preponderance of evidence weighed in the plaintiff's favour.

The learned judge considered this approach to be in complete accord with the rule accepted in earlier decisions of the Supreme Court.[1] This was undoubtedly sufficient to dispose of the case but Ritchie J. felt compelled to deal with this strong dissent of Tritschler J.A. in the Court of Appeal that had been relied on largely by the appellant. The majority in the Court of Appeal had placed considerable weight on the fact that no evidence of motive had been produced by the appellant. Tritschler J.A. felt that the failure of the appellant to produce evidence of motive should never be decisive against him, that the proof of suicide was to be sought in the circumstances of the death and in his opinion these circumstances forced him to the conclusion that the death was self-inflicted with intent. Ritchie J. admitted that evidence of motive was of little probative value in rebutting the presumption against suicide but in his opinion it did not necessarily follow that the complete absence of evidence of motive when taken in conjunction with the unnatural quality of the act of self-destruction can never be a decisive factor in support of the theory that death was accidental.

R.L.W.